9ev. 02/2006

COURTROOM MINUTES OF CRIMINAL PROCEEDINGS
Norfolk/Newport News Division

# SENTENCING MINUTES

Set: 10:00 a.m.
Started: 10:00 a.m.
Ended: 10:40 a.m.

Date: November 29, 2016
Judge: Raymond A. Jackson, USDJ
Court Reporter: Janet Collins, OCR
U.S. Attorney: Alyssa Nichol, SAUSA
Defense Counsel: Shawn Cline, Ret.
Courtroom Deputy: P. Thompson
Probation Officer: Carmen Perez, USPO
Interpreter: ______________________

Case No. 2:16cr98
Defendant: Gabriel C. Groux ( ) in custody ( X ) on bond

__X__ Came on for disposition. ____ Deft. sworn. ____ Interpreter sworn

_ X _ Court adjudged deft. guilty of count _1__ of the __Criminal Information_ __.

_____ Govt/Deft's _____ motion for downward departure.
_____ motion for acceptance of responsibility.
_____ Granted. ____ Denied.

_X__ Presentence Report reviewed. ____ Objections heard and rulings made.

_X__ Court adopts PSR for the purpose of establishing the advisory guidelines.

____ Court GRANTS Government request for 2-pt reduction in offense level based upon Attorney General's Policy.

__X__ Evidence presented. (Witness listed on last page)

_X__ Arguments of counsel heard. __X__ Statement of deft. heard.

## IMPRISONMENT:

SENTENCE: Count ____5____: The deft. shall be committed to the custody of the BOP to be imprisoned for a total term of _5___ months. The term consists of _____months on count ____, a term of ____ months on count _____ and ____ months on count ___, all to be served concurrently/consecutively.

__X__ The deft. is remanded to the custody of the U.S. Marshal.

_____ The deft. shall surrender for service of the sentence at the institution designated by the BOP/U.S. Marshal before __ on _____________, as notified by the U.S. Marshal.

____ If deft. is unable to arrange transportation to the designated institution, the United States Marshal will arrange transportation for the defendant.

____ If the defendant is not notified by the United States Marshal of the institution designated, the defendant shall report to the United States Marshal at 600 Granby Street, Norfolk, VA, by __________ on _____________, to begin service of the sentence.

## PROBATION:

____ The deft. shall be placed on probation for a term of ____ years.

## SUPERVISED RELEASE:

__X__ Upon release from imprisonment, the deft. shall be on supervised release for a term of __3___ years. This term consists of ____ years on count ____, a term of ____ years on count ____, and a term of ___ years on count ___, all to run concurrently.

___ The Court will not impose a term of supervised release as it is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment.

## Standard Conditions of Supervised/Probation:

The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state, or local crime.

While on supervised release, the defendant shall not illegally possess a controlled substance.

While on supervised release, the defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

_____ The deft. shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of commencement on supervised release and at least two periodic drug tests thereafter, as directed by the probation officer.

__X__ As reflected in the presentence report, the deft. presents a low risk of future substance abuse and therefore, the court hereby suspends the mandatory condition for substance abuse testing as defined by 18 USC 3563 (a)(5). However, this does not preclude the U.S. Probation Office from administering drug tests as they deem appropriate.

_____ It shall be a condition of supervised release that the deft. pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

## Special Conditions of Supervised Release/Probation:

______ If the deft tests positive for illegal drugs, he shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the deft. has reverted to the use of drugs or alcohol, with partial costs to be paid by the deft., all as directed by the probation officer.

______ The deft. shall waive all rights of confidentiality regarding substance abuse / mental health treatment in order to allow the release of information to the United States Probation Office or the Bureau of Prisons and authorize communication between the probation officer and the treatment provider.

______ Upon completion of the term of imprisonment, the deft. is to be surrendered to a duly-authorized immigration official of the Department of Homeland Security United States Immigration and Customs Enforcement for a deportation review in accordance with established procedures provided by the Immigration and Naturalization Act, 8 U.S.C. 1101 et seq., as a further condition of supervised release, if ordered deported, the deft. shall remain outside of the United States.

_____ The deft. shall participate in a program approved by the United States Probation Office for mental health treatment. The cost of this program is to be paid by the defendant as directed by the probation officer.

_____ The deft. shall pay support for his minor child(ren) in the amount ordered by any social service agency or court of competent jurisdiction. In the absence of any such order, payments are to be made on a schedule to be determined by the court at the inception of supervision, based on the defendants financial circumstances.

__X___ The deft. shall apply monies received from income tax refunds, lottery winnings, inheritances, judgments, and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation, or in a lesser amount to be determined by the court, upon the recommendation of the probation officer.

_X__ The deft. shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

_X__ The deft. shall provide the probation officer access to any requested financial information.

____ The deft. is prohibited from engaging in any occupation where the deft. would have access to another individual's personal information or money.

__X__ The offender shall participate in the Treasure Offset Program (TOP) as directed by the probation officer.

____ The deft shall participate in a program approved by the United States Probation Office for financial counseling. The cost of this program is to be paid by the deft as directed by the probation officer

__X__ The defendant shall obtain a vocation skill during his period of supervision if not employed full-time.

____ The deft. shall be on Home Detention, which shall include electronic monitoring at the deft's expense, for a period of consecutive months/days. During this time, he/she shall remain at his\her place of residence except for employment and other activities approved in advance by the probation officer.

____ Deft shall maintain a telephone at his place of residence without party lines, telephone answering machines, a modem, "call forwarding," "caller ID," "call waiting@, portable cordless telephones or any other devices or services that may interfere with the proper functioning of the electronic monitoring equipment for the above period. Deft shall wear an electronic monitoring device, follow electronic monitoring procedures, and pay the cost of electronic monitoring, all as directed by the probation officer.

____ The deft. shall comply with the requirements of the computer monitoring program as administered by the Probation Office. The deft. shall consent to the installation of computer monitoring software on any computer to which the deft. Has access. Installation shall be performed by the probation officer. The software may restrict and/or record any and all activity on the computer, including the capture of keystrokes, application information, internet history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. The deft. shall also notify others of the existence of the monitoring software. The deft. shall not remove, tamper with, reverse engineer, or in any way circumvent the software. The costs of the monitoring shall be paid by the deft.

____ The deft. shall consent to the use of wi-fi detection devices, to allow the probation officer to detect the presence of wireless signals inside or outside of the defts. residence.

**Sex Offender Special Conditions:**

__X__ The defendant shall participate in a program approved by the United States Probation Office for mental health treatment, to include a psychosexual evaluation, and sex offender treatment. The costs of these programs are to be paid by the defendant as directed by the probation officer. The defendant shall waive all rights of confidentiality regarding sex offender/mental health treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.

____ The defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, and attends school as directed by the probation officer.

____ Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, and attends school, according to federal and state law and as directed by the probation officer.

____Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall submit to a search of his person, property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning unlawful conduct or a violation of a condition of supervision.

__X__ The defendant shall submit to polygraph testing as directed by the United States Probation Officer as part of his sex offender therapeutic program. The costs of the testing are to be paid by the defendant as directed by the probation officer.

____ The defendant shall not possess or use a computer to access any online computer services at any location, including employment, without the prior approval of the probation officer. This includes any internet service providers, bulletin board systems, or any other public or private computer network.

_X__ The defendant shall have no contact with minors unless supervised by a competent, informed adult, approved in advance by the probation officer.

____ If recommended by the sex offender treatment provider, the defendant shall submit to penile plethysmograph testing, or a comparable test, as directed by the United States Probation Office as part of his sexual offender therapeutic treatment. The costs of the testing are to be paid by the defendant, as directed by the probation officer.

____ The defendant shall not utilize any sex-related adult telephone services, websites, or electronic bulletin boards. The defendant shall submit any records requested by the probation officer to verify compliance with this condition including, but not limited to, credit card bills, telephone bills, and cable/satellite television bills.

__X__ The defendant shall not accept any paid or volunteer positions involving children.

__X__ The defendant shall not have any access to or possess any pornographic material or pictures displaying nudity or any magazines using juvenile models or pictures of juveniles.

____ The deft. shall submit to an Able Assessment for Sexual Interest (ASSI) as directed by the U.S. Probation Office as part of his sexual offender therapeutic treatment. The costs of the testing are to be paid by the deft as directed by the probation officer.

___ The deft shall not possess or use a computer to access any online computer services at any location, including employment, without prior approval of the probation officer. This includes any internet service providers, bulletin board systems, or any other public or private computer network.

__ The deft. shall comply with the requirements of the computer monitoring program as administered by the Probation Office. The deft. shall consent to the installation of computer monitoring software on any computer to which the deft. has access. Installation shall be performed by the probation officer. The software may restrict and/or record any and all activity on the computer, including the capture of keystrokes, application information, internet use history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. The deft shall also notify others of the existence of the monitoring software. The deft. shall not remove, tamper with, reverse engineer, or in any way circumvent the software. The costs of the monitoring shall be paid by the deft.

____ The deft. shall not sell or offer to sell any item on the internet for another person or entity without preapproval and authorization from the Court or probation officer. This includes, but is not limited to, selling items on internet auction sites.

___ During the term of supervision, the deft. shall not possess or utilize any video gaming system, console, or other such device which would enable contact and/or the sharing of data with other individuals known or unknown to the deft.

___ The deft shall consent to the use of Wi-Fi detection devices, to allow the probation officer to detect the presence of wireless signal inside or outside of the defts residence.

## Illegal Alien Special Conditions:

______ As a condition of supervised release, upon completion of the term of imprisonment, the defendant is to be surrendered to a duly-authorized immigration official of the Department of Homeland Security Bureau of Immigration and Customs Enforcement for deportation in accordance with established procedures provided by the Immigration and Naturalization Act, 8 U.S.C. Section 1101, et seq. As a further condition of supervised release, if ordered deported, the defendant shall remain outside the United States.

_____ If at anytime the defendant illegally reenters the United States during the term of supervised release, his illegal reentry will be a violation of supervised release, as well as a violation of law.

# FINANCIAL PENALTIES

## SPECIAL ASSESSMENT:

_X_ As to count _1_, the deft. shall pay a special assessment in the amount of _$100.00_.

____ As to count ____, the deft. shall pay a special assessment in the amount of _______.

____ As to count ____, the deft. shall pay a special assessment in the amount of _______.

____ As to count ____, the deft. shall pay a special assessment in the amount of _______.

The total special assessment due is _$100.00_ and shall be due in full immediately.

Any balance remaining unpaid on the ~~fine~~/special assessment at the inception of supervision, shall be paid by the deft. in installments of not less than $___ per month, until paid in full. Said payments shall commence sixty (60) days after defts. supervision begins.

## FINE:

_X_ Court finds deft. is unable to pay fine.

____ The deft. shall pay a fine in the amount of $__________.

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## RESTITUTION:

_X_ The deft. shall make restitution in the amount of $1,392.70 to R.W. .

____ Interest waived

_X_ Restitution Judgment Order, entered and filed in open court.

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## SCHEDULE OF PAYMENTS:

____ Interest will not accrue if the special assessment/fine/restitution is paid in accordance with the schedule, or any modified schedule, set by this court.

_X_ The special assessment/~~fine~~/restitution is due and payable immediately. Any balance remaining unpaid on the special assessment/~~fine~~/restitution at the inception of supervision, shall be paid by the deft. in installments of not less than $50.00 per month, until paid in full. Said payments shall commence _60_ days after deft's supervision begins.

____ At the time supervision commences, the probation officer shall take into consideration the defendant's economic status as it pertains to his ability to pay the special assessment/fine/restitution ordered and shall notify the court of any change that may need to be made to the payment schedule.

____ Each restitution payment shall be divided proportionately among the payees named.

____ Restitution shall be made jointly and severally with ________________________________________

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____ Nothing in the Court's order shall prohibit the collection of any judgment, fine, or special assessment by the United States.

____ Any special assessment, restitution, or fine payments may be subject to penalties for default and delinquency.

____ Since this judgment imposes a period of imprisonment, payment of Criminal Monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the Clerk, United States District Court, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

____ The deft. shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

____ The deft. notified of right of appeal.

_X__ Court noted that deft. waived right of appeal in plea agreement.

_____ On motion of gov't, remaining counts dismissed.

____ The deft. is continued on present bond and cautioned re bail jumping.

____ Court recommends to the Bureau of Prisons:

______ The deft. be incarcerated in or near the Commonwealth of Virginia.
_____ the deft. be enrolled in a mental health program.

_____ the deft. be enrolled in a GED/educational program.

_____ the deft be enrolled in a drug education program.

_____ the deft be enrolled in a 500 hour Residential Drug Abuse Program (RDAP).

_____ the deft be enrolled in a substance abuse treatment program.

_____ the deft be enrolled in a vocational education program.

____ Consent Order of Forfeiture, executed and filed in open court.

## Additional Counts/Comments:

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

Defense Witness:
1. Guy Maurice Christoph Groux